
**Technology, Energy & Communications
Committee**

HB 1081

Brief Description: Regarding the siting of small alternative energy resource facilities.

Sponsors: Representatives Morris, Frockt and Moeller.

Brief Summary of Bill

- Authorizes the Energy Facility Site Evaluation Council (EFSEC) to permit small alternative energy resource facilities.
- Permits the EFSEC and local governments to enter into inter-local agreements to permit small alternative energy resource facilities within the geographic jurisdiction of the local government.
- Authorizes the EFSEC to delegate authority for ensuring compliance with the terms of any certificate or permit issued by the EFSEC to other state or local agencies.

Hearing Date: 1/18/11

Staff: Scott Richards (786-7156).

Background:

Siting Local Renewable Energy Systems.

The process for siting and constructing small energy systems is generally governed by local ordinances. It may include building permits, conditional use permits, and related administrative hearings.

Energy Facility Site Evaluation Council.

The Energy Facility Site Evaluation Council (EFSEC) provides a "one-stop" siting process for major energy facilities in Washington. The EFSEC coordinates all evaluation and licensing steps for siting certain energy facilities in Washington. The EFSEC specifies the conditions of

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construction and operation. If approved, a site certification agreement is issued in lieu of any other individual state or local agency permits.

Siting Alternative Energy Resources Using the EFSEC.

Energy facilities of any size that exclusively use alternative energy resources can also opt-in to the EFSEC site certification process. An EFSEC site certification agreement, approved by the Governor, authorizes an applicant to construct and operate an energy facility in lieu of any other permit or document required by any other state agency or subdivision.

Eligible alternative energy resources include energy facilities of the following types: (1) wind; (2) solar energy; (3) geothermal energy; (4) landfill gas; (5) wave or tidal action; or (6) biomass energy based on solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic.

EFSEC Site Certification Process.

The EFSEC certification process consists of initial public hearings followed by the issuance of a draft Environmental Impact Statement (EIS). The EFSEC also holds a hearing to determine whether the project is consistent with local land use plans or ordinances.

Subsequent to issuance of the draft EIS, an adjudicative proceeding is held to consider the environmental and other issues and to determine if the EFSEC will recommend preemption of any local land use regulations. This proceeding is a formal hearing process where the EFSEC hears from the official parties, the Attorney General's Council for the Environment, and any interveners.

After the adjudicatory process, EFSEC releases the final EIS and determines whether the project should be recommended to the Governor for approval. If the recommendation is for approval, the EFSEC will submit a final order and a draft site certification agreement (SCA) for the Governor to sign. If rejected, the EFSEC submits a final order explaining the rejection. The Governor has 60 days to consider the EFSEC's recommendation and can take one of the following actions: (1) execute the draft SCA, (2) reject the application, or (3) direct the EFSEC to reconsider certain aspects of the project and draft SCA.

After a site certification is approved, the EFSEC may delegate to a state agency, through an interagency agreement, responsibilities relating to site certification compliance monitoring of the construction and operation of an energy facility.

Net Metering.

Net metering allows electricity customers to offset their consumption of purchased electricity with electricity generated by their own small scale net metering system. Under current law, a net metering system must generate no more than 100 kilowatts (kW) using water, wind, solar energy, biogas from animal waste, fuels cells, and a facility that produces electricity and thermal energy from a common fuel source.

Summary of Bill:

Site Permits for Small Alternative Energy Resource Facilities.

The EFSEC is authorized to issue site permits, using generally established safety standards for the construction, reconstruction, or enlargement of small alternative energy resource facilities. Site permits for small alternative energy resources are exempted from the following: (1) the EFSEC's hearing and adjudicatory process; and (2) review and approval by the Governor. The EFSEC may delegate authority to EFSEC staff to issue small alternative energy resource facility site permits.

A person may apply to the EFSEC for a site permit for a small alternative energy resource facility, if one or more of the following conditions applies: (1) the facility is located in a county or municipality that has not adopted ordinances for the permitting of small alternative energy resource facilities; (2) the facility is located in a county or municipality that has not updated its ordinances for the permitting of small alternative energy resource facilities in over 10 years; or (3) the county or municipal permitting process for a proposed small alternative energy resource facility exceeds six months from time of application and the proposed facility meets generally established safety standards.

A small alternative energy resource facility site permit issued by the EFSEC preempts any local ordinance relating to small alternative energy resource facilities adopted after the issuance of the site permit.

Mitigation and Cost Inquiry Letter.

Any person, before submitting an application for a small alternative energy resource facility site permit, may submit a letter to the EFSEC to inquire as to whether a proposed small alternative energy resource facility would require mitigation and receive a written estimate from the EFSEC of the cost of processing the application. The EFSEC must provide a response within 30 days of receiving such a letter of inquiry.

Established Safety Standards for Small Alternative Energy Resource Facilities.

The EFSEC must survey for and determine generally established safety standards for each type of small alternative energy resource facility and adopt site permitting standards based on the review of these standards.

In surveying for and determining generally established safety standards, the EFSEC must use existing local municipal and county small alternative energy resource facility ordinances in Washington adopted in the last 10 years. If there are no existing local municipal and county ordinances in Washington relating to small alternative energy resource facilities adopted in the last 10 years, then the EFSEC must use existing state, local, or municipal ordinances in the Western Electric Coordinating Council (WECC) geographic area adopted in the last 10 years. If there are no existing state, local, or municipal ordinances relating to small alternative energy resource facilities in the WECC geographic area adopted in the last 10 years, then the EFSEC must use existing state, local, or municipal ordinances adopted in the United States in the last 10 years.

Site Permit Review Fee.

The EFSEC may charge a fee that covers the costs incurred by the EFSEC in reviewing a small alternative energy resource facility site permit and of compliance inspection costs delegated to local governments. The EFSEC must develop and charge a fee that provides the lowest possible cost to the applicant.

Interlocal Agreements.

The EFSEC and any local government in the state may enter into an interlocal agreement for the purpose of authorizing the EFSEC to issue permits for small alternative energy resource facilities within the geographic jurisdiction of the local government. The EFSEC may serve as the permitting authority for a local government if the local government determines that it would be more cost-effective for the EFSEC to permit small alternative energy resource facilities within their jurisdiction.

Delegation of On-Site Compliance Inspections.

The EFSEC may delegate authority for ensuring compliance with the terms of any site certificate or permit issued by the EFSEC to other state or local agencies.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.